

NO. 26076

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

WOLFGANG EISERMANN, Petitioner

vs.

VICTORIA S. MARKS, Judge, Circuit Court of the First
Circuit, and DONALD L. WILKERSON, Respondents

ORIGINAL PROCEEDING

ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of Petitioner Wolfgang Eisermann's petition for writ of mandamus, the papers in support, and the records and files herein, it appears that: (1) a writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress the alleged wrong or obtain the requested action. State v. Hamili, 87 Hawai'i 102, 104, 952 P.2d 390, 392 (1998); (2) such writs are not meant to supersede the legal discretionary authority of the lower courts nor are they meant to serve as legal remedies in lieu of normal appellate procedures. Id.; (3) where a court has discretion to act, mandamus will not lie to interfere with or control the exercise of that discretion even when the judge has acted erroneously, unless the judge has exceeded his or her discretion, has committed a flagrant and manifest abuse of discretion, or has refused to act on a subject that is properly before the court

under circumstances in which it has a legal duty. Id.; and
(4) Petitioner fails to demonstrate that he is entitled to a writ
of mandamus. Therefore,

IT IS HEREBY ORDERED that the petition for a writ of
mandamus is denied.

DATED: Honolulu, Hawai'i, October 24, 2003.

Wolfgang Eisermann,
petitioner pro se,
on the petition